IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

REVIEW PETITION NO.29 OF 2006

IN

WRIT PETITON NO.60 OF 2006

Shri Shakti LPG Ltd. ..Petitioner.

V/s.

The Union of India & Ors. ..Respondents.

Mr.R.V.Desai, senior counsel with M.S.Karnik for petitioner.

Mr.A.J.Rana, senior counsel with H.V.Mehta for respondents.

CORAM : Dr.S.RADHAKRISHNAN & J.P.DEVADHAR, JJ.

DATED : 22ND FEBRUARY, 2006.

P.C. :-

1. Heard the learned counsel for the petitioner and the respondents. By this petition, the petitioner is seeking to review our earlier order dated 13/1/2006 passed by us in Writ Petition No.60 of 2006 whereby in paragraph 4 we had categorically stated that the attempts of sale to the Units in the SEZ area would not amount to re-export of goods as contemplated under 69

(1) of the Customs. It was also observed that even in the past the auction was stayed on the specific assurance given by the petitioner in writing that it would clear the goods on payment of duty with interest, but the same was not complied with by the petitioner.

2. The petitioner had approached the Hon'ble Supreme Court by way of Special Leave Petition challenging our aforesaid order dated 13/1/2006. We have perused the said Special Leave petition wherein the substantial questions of law of general public importance raised in paragraph No.2 reads as under :-

A) Whether supply of goods to a unit located in a Special Economic Zone would be treated as export to a place outside India in light of the provisions contained in Section 76A of the Customs Act, 1962 and Points 7.1.2 and 7.1.3 of the Foreign Trade Policy 2004-2009 ?

B) What is the true scope and purpose of Chapter XA of the Customs Act read with Special Economic Zones Rules, 2003 which clearly sets out that any goods admitted into Special Economic Zone from Domestic Tariff Area shall be treated as exported goods ?

C) Whether supply of goods to unit located in Special Economic Zone will fall within the purview of Section 69(1) of the Customs Act, 1962 ?

3. Thus, the question as to whether the supply of

goods to SEZ Unit in the light of Section 76A of the Customs Act would be export outside India for the purposes of Section 69 of the Customs Act was specifically raised in the Special Leave Petition. It appears that initially the Apex Court had granted ad-interim stay but ultimately after hearing both parties the Apex Court was pleased to dismiss the Special Leave Petition.

4. In view of the fact that the very same issues sought to be raised in this Review Petition were specifically raised before the Hon'ble Supreme Court in the above Special Leave Petition and the same having been dismissed by the Hon'ble Supreme Court, we are not inclined to entertain this Review Petition. Hence no ground made out for review. Hence the Review Petition stands rejected with no order as to costs.

5. Needless to say that the ad-interim stay on the auction proceedings shall stand vacated forthwith.

(Dr.S.RADHAKRISHNAN,J.)

(J. P. DEVADHAR, J.)